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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,682	09/04/2001	Antti Sarela	3003-00034	9988

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EXAMINER

MENDOZA, MICHAEL G

ART UNIT PAPER NUMBER

3731

DATE MAILED: 05/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/857,682

SA  
Applicant(s).

SARELA ET AL.

Examiner

Michael G. Mendoza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 36-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 36-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 24 January 2004 have been fully considered but they are not persuasive. The Applicant argues that Bathe et al. fails to teach means for periodically feeding a reference signal to the measuring device. Bathe et al. teaches a means periodically feeding a reference signal (signal line 67) to a measuring device (CPU). The signal being the concentration of NO (col. 6, lines 5-12). The concentration of NO being the reference value. The Applicant also argues that Bathe et al. fails to teach a safety measure. Bathe et al. teaches a safety measure (an alarm) the is activated in the event that the detected gas is a predetermined value always from a set point (col. 6, lines 1-12).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 36-58 are rejected under 35 U.S.C. 102(b) as being anticipated by Bathe et al. 5558083.

4. As to claims 36-44, Bathe et al. teaches an arrangement for a feedback control system connected to a medical apparatus, the arrangement comprising: a controllable device (whole device); a measuring device 52; a controlling device 56; a user interface 58; means for periodically feeding a reference signal to the measuring device 67, the

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reference signal having a real, known reference value (col. 2, lines 44-47; col. 6, lines 5-13); wherein the controlling device is adapted to compare the measuring value (col. 6, lines 43-53); wherein the controlling device is adapted to take a safety measure (col. 8, lines 1-12); wherein the safety measure comprises disconnection of the of the control of the controllable device (col. 8, lines 1-12); wherein the safety measure comprises opening a safety valve (col. 8, lines 1-12 and lines 21-27); wherein the safety measure comprises providing an alarm signal (col. 8, lines 1-12); wherein the controllable device comprises one of a gas mixer and ventilator (col. 2, lines 44-51), wherein the measuring device comprises a gas monitor 65; and wherein the controlling device comprises a separate controller 56; wherein the reference signal is a gas sample (NO); means for feeding the reference signal which comprise a selector valve 18; wherein the gas sample is a fresh gas sample (NO); and wherein backup valves are adapted to control the operation of the selector valve (col. 6, lines 16-19; col. 8, lines 21-27).

5. As to claim 45-58, Bathe et al. teaches an arrangement for a feedback control system connected to a medical apparatus, the medical apparatus having a controllable device for controlling a patient care factor, the arrangement comprising: a signal responsive controlling device 56; a user interface 58; a first means for sampling 52; a means for measuring (col. 5, lines 60-21 and col. 6, lines 16-19); a means for providing a reference value (col. 6, lines 5-13); second sample means 65; means for switching (col. 6, lines 13-19); the means for switching being switchable to provide the property sample from the second means for sampling to the means for measuring to cause the means for measuring to provide a second output signal (col. 5, lines 33-45); a

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comparator (col. 6, lines 43-53); at least one backup valve (col. 8, lines 21-27); a safety measure/disconnect (col. 8, lines 1-12); a safety valve (col. 8, lines 1-12 and lines 21-27); an alarm (col. 8, lines 1-12); wherein the medical apparatus comprises anesthesia administration apparatus.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (571) 272-4698. The examiner can normally be reached on Mon.-Fri. 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on (571) 272-44963. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MM

  
GLENN K. DAWSON  
PRIMARY EXAMINER